

REMARKS

The indicated allowability of dependent claims 12 and 13 is noted, with thanks. New independent claim 14 essentially comprises claim 12 rewritten in independent form. New independent claim 15 essentially comprises claim 13 rewritten in independent form.

As for the remaining claims, independent claim 1 has been amended to incorporate the limitations of claim 3, which has been cancelled. Independent claim 2 has been amended to incorporate the limitations of claim 4, which has been cancelled. Other minor language changes have been made in the claims as well.

Turning to the previous art rejections, the rejection of independent claims 1, 2, and dependent claims 10 and 11 as anticipated by Kikuchi et al. are rendered moot by the amendment of claim 1 to incorporate the limitations of claim 3 and the amendment of claim 2 to incorporate the limitations of claim 4.

As to the rejection of claims 3 and 4 as obvious from Kikuchi et al. (Kikuchi) in view of Tateishi et al. (Tateishi), independent claim 1, as amended, requires "a thickness error detector for detecting a thickness error of said transparent layer with reference to a specified value or its sign, based on a difference between the absolute value of the positive peak of said focus error signal and the absolute value of the negative peak of said focus error signal". This feature is neither disclosed nor suggested in Kikuchi and Tateishi. Thus, no combination of Kikuchi and Tateishi could achieve or render obvious claim 1.

And, claim 2, as amended, requires "a thickness error detector for detecting a thickness error of said transparent layer with reference to a specified value or its sign, based on a difference between the focus position of the peak point of said sum signal and the focus position of the zero point of said focus error signal". However, this feature is neither disclosed

nor suggested in Kikuchi and Tateishi. Thus, no combination of Kikuchi and Tateishi could achieve or render obvious claim 2.

Claims 10-13 are directly or indirectly dependent on claim 1 or claim 2, as the case may be, and are allowable over the applied art for the same reasons above adduced relative to claims 1 and 2 as well as for their own additional limitations.

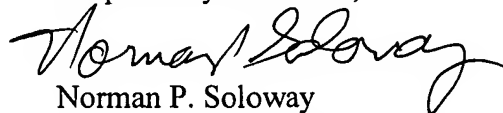
With regard to non-elected claims 5-9, it is respectfully requested that these claims, which all depend on claim 1 or claim 2, as the case may be, should be rejoined and also allowed for the same reasons above adduced relative to claims 1 and 2, as well as for their own additional limitations.

Credit card payment form in the amount of \$200.00 is enclosed for the added independent claim.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action are respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 31, 2006, at Tucson, Arizona.

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